

RESEARCH, EDUCATION & ECONOMICS (REE)

Ethics Program

Lobbying Activities

The lobbying activities of Federal agencies are governed by the Anti-Lobbying Act (18 USC Section 1913, originally enacted in 1919). The purpose of the Act is to prevent agencies, acting through their employees or SGEs, from using appropriated funds, or resources secured with appropriated funds, to lobby any Federal, state, or local government official with respect to any pending or proposed legislation, resolution, appropriation, or measure. The Office of Legal Counsel within the Department of Justice has interpreted the statute based on its underlying purpose, which is to restrict the use of appropriated funds for large-scale, high-expenditure campaigns to solicit pressure on government officials in relation to pending or proposed legislative matters on behalf of an Administration position. It is important to understand that there is a distinction between the Anti-Lobbying Act and the [Hatch Act](#) which governs the partisan political activities of employees, such as participation in the political process as candidate or a campaign staff member. It is important to note that these provisions are not intended to inhibit the necessary flow of information and communication between the Executive and Legislative Branches of government; they are intended to prevent any inappropriate or undue influence on the legislative process.

The Anti-Lobbying Act does not prohibit government employees from participating in lobbying activities while they are on personal time. Federal employees retain a constitutional right (as recognized by 5 USC Section 7211) to petition Congress, provided they act in a personal capacity. Employees communicating with Congress on behalf of themselves or some other group or cause should provide a disclaimer which indicates that the views expressed are those of the employee or others and do not reflect the position of the individual's employing agency. In addition, employees may not use their government computer, phone, fax or other supplies to conduct personal lobbying activities, even when on personal time, as that would constitute use of resources secured with appropriated funds for lobbying activities. See the REE policy on personal use of equipment, available at the following web site: <http://www.afm.ars.usda.gov/ppweb/253-4rev.htm>

Under the Anti-Lobbying Act, government employees as part of their official work MAY NOT:

- engage in substantial 'grass roots' lobbying campaigns of telegrams, letters, and other private forms of communication expressly urging individuals to contact government officials in support of or opposition to legislation. "Substantial" is not defined in the Act, but the 1919 legislative history cites an expenditure of \$7500 as the limit, which is considered to approximate \$50,000 now. Grass roots lobbying means encouraging or helping send letters, telegrams, and other communications to government officials to support or oppose pending or proposed legislation. Despite the \$50,000 limit, the Department of Justice recommends that agencies avoid even an appearance of lobbying by refraining from including in their communications with private citizens any requests to contact government officials in support of or opposition to legislation.
- provide administrative support for the lobbying activities of private organizations,
- prepare editorials or other communications that will be disseminated without an accurate disclosure of the government's role in their origin (providing copies of existing information is permitted), or
- appeal to members of the public to contact their elected representatives in support of or opposition to legislative matters or proposals.

Under the Anti-Lobbying Act, government employees as part of their official work MAY:

- communicate through normal channels with Members of Congress and State and local officials and their staffs in support of Administration or Department positions. The Act does not apply to such direct communications.
- communicate with the public through public speeches, appearances and published writings to support Administration positions. Although the Department of Justice has interpreted the statute as not applying to speeches, it nevertheless recommends against using such public forums to call on the public to contact legislators or other government officials in support of or opposition to legislation because it is unclear what will be perceived as a grass roots campaign in any given context.
- communicate privately with members of the public to inform them of Administration positions and to promote those positions -- but only to the extent that such communications do not involve the prohibited activities listed above.

Non-Government Employees:

Many individuals who are not government employees are invited by USDA to participate in special meetings or functions for USDA, including peer review activities, advisory committee meetings, grant making and/or contracting. These individuals may engage in lobbying activities on their own time (other than during the scheduled meeting times) if:

- there is no additional expense to the government; and
- their lobbying activities in no way interfere with the purposes for which or the schedule on which they are brought to USDA (i.e., government duties and responsibilities).

Examples:

1. You are giving an official speech at a professional conference. During your presentation, you may promote the Administration's position, but should not encourage attendees to contact their legislative or other government officials or representatives to support or oppose legislation.
2. You receive a call from a professional society which asks for assistance in preparing materials they want to distribute to encourage their members to contact members of Congress about a particular legislative issue. You **may** give the society copies of any existing and publicly available information. You **may not** write or assemble a new document intended solely for their use in their campaign. You **may not** give the society mailing lists or labels to assist them in their distribution of the materials.
3. You receive a call from an individual asking for specific information which the individual wishes to use to contact Congress about a particular political nominee currently being considered. You **may** provide the requested information to the individual, as long as it is publicly available information. (The Act does not cover lobbying for nominations.)
4. A professional society of which you are a member and officer asks you to represent them before Congress regarding some legislative and nomination issues. You **may** represent that society in your personal capacity, being careful to indicate that you are there in your personal capacity as a representative of the society.

5. You are a Special Government Employee and want to meet with your Senator to discuss next year's budget while you're in town for a meeting at USDA. You **may** meet with your Senator as long as it is either before the meeting begins or after it ends, and the meeting with your Senator does not cause additional expense to the government, such as an extra night's lodging or increased airfare. You **may not** miss part of the scheduled meeting activities.

For additional information, please contact your Ethics Advisor.

Additional information is available via the USDA Office of Ethics website:

<http://www.usda-ethics.net/rules/index.htm>

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